
PUBLIC UTILITIES POLICY

*Policy GC-P9804
Adopted July 17, 1998*

Part 1 - Context

1.1 Background

The Metis Settlements General Council holds the fee simple interest in Metis settlement area lands. Utilities use these lands to provide services inside and outside of settlement areas. The *Metis Settlements Act* provides for General Council and settlement council to legislate on matters related to the operations of utilities within the settlement areas. Such matters include the creating, granting, and registration of interests in settlement area lands, the assessment and taxation of these interests, and the licencing of related activities within the settlement areas.¹

1.2 Purpose

The purpose of this Policy is to establish a fair, orderly, and equitable system in which

- (a) public utilities can acquire the rights to use land and carry on activities in settlement areas in order to provide services to settlement areas and other communities;
- (b) settlement councils and public utilities can cooperate in ensuring the community receives safe, reliable and efficient utility services, with minimum damage to the land, environment, and social fabric of the community;
- (c) public utilities contribute to the community a fair amount considering the land use and activity rights they acquire, and provide compensation when appropriate.

1.3 Interpretation

(1) In this Policy

- (a) "**Act**" means the *Metis Settlements Act*;
- (b) "**landholder**" means, with regard to a parcel of land, the person shown in the Metis Settlements Land Registry as the holder of the Metis title to the parcel, whether that person is a member of the settlement or the settlement itself;
- (c) "**utility**" means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:
 - (i) water or steam;
 - (ii) sewage disposal;
 - (iii) public transportation operated by or on behalf of the Settlement;

- (iv) irrigation;
 - (v) drainage;
 - (vi) fuel;
 - (vii) electric power;
 - (viii) heat;
 - (ix) waste management;
- and includes the thing that is provided for public consumption, benefit, convenience or use;
- (d) *"utility right of way"* means a right to clear, dig in, build on, and use, a specified area of land as needed in order to construct and operate the facilities of a utility, but it does not include the right to exclude others from using that area in ways compatible with the proper operation of the facilities;
 - (e) *"utility service"* means the thing that is provided by the system or works of public utility;
- and terms defined in the *Metis Settlements Act*, or regulations made under it, have the same meaning when used in this Policy, unless the context makes such an interpretation unreasonable.
- (2) Footnotes in this Policy are a part of the Policy included to help with interpretation.

Part 2 - Lands, Taxes, And Appeals

2.1 Nature of utility right of way

- (1) A utility right of way is
 - (a) an interest in land registerable in the Metis Settlements Land Registry,
 - (b) a utility interest for the purposes of the *Metis Settlements Land Registry Regulation*,
 - (c) a utility right of way for the purposes of the Metis Settlements General Council *Land Policy*; and
 - (d) contributing property for the purposes of the *Business Property Contribution Policy*.
- (2) A utility right of way may only be held by a Settlement or by a utility authorized by the Settlement to hold the interest.

2.2 Granting of utility right of way

- (1) Notwithstanding the provisions of sections 2.9 and 2.10 of the General Council *Land Policy*, a landholder can grant a utility right of way to a utility for an indefinite length of time if
 - (a) the grant is made in accordance with an agreement between the Settlement and the utility, and
 - (b) the Settlement council has approved the grant.
- (2) Where
 - (a) a Settlement council approves the granting of a utility right of way, and
 - (b) the landholder refuses to make the grant,a right of entry order by the Land Access Panel giving a right to enter and use specified area of land for the purpose of constructing, maintaining or operating utility will create a corresponding utility right of way the same as if it had been granted by the landholder.

2.3 Utility services agreements

- (1) To meet community needs and enable proper planning, land use, and development of the Settlement Area, a Settlement may, by a utility services agreement, grant a person a right to provide utility services in all or part of the Settlement Area.

- (2) The utility services agreement may grant a right, exclusive or otherwise, to use the Settlement's property, including property under the direction, control and management of the Settlement, for the construction, operation and extension of utility in the Settlement Area for not more than 20 years.
- (3) The agreement, and any change in it, does not take effect until approved by bylaw and by the Alberta Energy and Utilities Board.

2.4 Utility service payment

- (1) In a utility services agreement the Settlement and utility may provide for the payment of an all inclusive annual utility service payment representing
 - (a) business property contributions required under the *Business Property Contributions Policy*, and
 - (b) any other fees or charges specified in the agreement.²
- (2) The annual utility service payment may be calculated as a percentage of the gross revenues received by the utility from services provided in the settlement area, or by any other means set out in the agreement.
- (3) A utility services agreement must provide that the Settlement accepts payment of the annual utility service payment in place of the business property contribution and other fees or charges specified in the agreement.

2.5 Appeal Tribunal functions

- (1) If a utility and settlement have an agreement that allows a request for mediation assistance to be made to the Metis Settlements Appeal Tribunal, and the Tribunal receives such a request, it must appoint a mediator and, if possible, provide the requested assistance.³
- (2) If a utility and a settlement have an agreement that allows an issue to be referred to the Metis Settlements Appeal Tribunal for determination, the Appeal Tribunal must determine the issue.

2.6 Application of model bylaw

The model bylaw included with this Policy applies to all settlements except Peavine and Paddle Prairie.

¹ For reference see ss. 99, 222(1)(c),(i), (m)-(s) and Schedule 1, ss.14, 19(h), of the *Metis Settlements Act*.

² Subsection 222(1)(i) of the *Metis Settlements Act* provides for Policies respecting the taxation of land related interests, improvements, and rights of use. Section 51 of the Act, and Schedule 1 s.14, provide for settlement by-law to regulate and require the licencing of any business, industry, or activity in the settlement area.

³ Section 189(1)(b) of the *Metis Settlements Act* requires the Appeal Tribunal to perform functions assigned to it by General Council Policy.

PUBLIC UTILITIES POLICY Model By-law

Part 1 - Context

1.1 Context

This model by-law is made under the General Council *Public Utilities Policy* for the purposes set out in that Policy.

1.2 Interpretation

This by-law should be interpreted in the same way as the *Public Utilities Policy*.

1.3 Application

This by-law does not apply to anyone generating electricity for use on their own land unless it is transmitted across the land of another landholder.

Part 2 - Licences, Fees, and Charges

2.1 Licencing Activities

- (1) No one can provide utility services in the settlement area, or transmit gas or electricity across land in the settlement area, or engage in work in the settlement area related to these activities, without a licence.
- (2) The settlement council can grant a licence, with any degree of exclusivity it considers appropriate, to authorize an activity prohibited by subsection (1) provided
 - (a) the council is satisfied the licensee is capable of, and committed to, carrying out the activities safely and in a manner consistent with community plans and purposes,
 - (b) all authorizations for the proposed activities required from regulatory bodies such as the Alberta Energy and Utilities Board have been granted, and
 - (c) the licensee has signed an agreement with the Settlement establishing the terms for carrying on the licenced activities in the Settlement Area.
- (3) Subject to section 2.2, the settlement council may by resolution establish fees for the licences provided for in subsection (2) as it considers appropriate.

2.2 Services Agreement

- (1) The settlement council may enter into a utility services agreement in the form set out in Schedule A of this by-law to provide for utility services in the settlement area, with the necessary modifications in the form for utilities other than electric power.
- (2) This by-law adopts an agreement made under subsection (1) as a utility services agreement under the *Public Utilities Policy* and as an annual contributions agreement under the *Business Property Contributions Policy*, provided:
 - (a) any amendments or attachments made to the schedule form in completing the agreement are consistent with the rest of the form, the *Public Utilities Policy* and this by-law;
 - (b) the annual utility service payment rate provided for in the agreement does not exceed 20%;
 - (c) the agreement is approved by a resolution of the settlement council; and
 - (d) the agreement is approved by the Alberta Energy and Utilities Board.

2.3 Offenses and penalties

A person commits an offence who carries on without a licence an activity for which a licence is required under this by-law and is liable on summary conviction to a fine not exceeding \$2500 and in default of payment to imprisonment for not more than 6 months.

ELECTRIC UTILITY SERVICES AGREEMENT

AMONG	_____ a body corporate having an office in Alberta (the "Utility")
	_____ Metis Settlement , as incorporated under the <i>Metis Settlement Act</i> (the "Settlement"); and
	Metis Settlements General Council , as incorporated under the <i>Metis Settlements Act</i> (the "General Council")

Article 1 - Context

1.1 Background

The Settlement Area is part of a Metis land base held in fee simple by the General Council and protected in the Constitution of Alberta. Provincial legislation recognizes the unique land ownership and government roles of the Metis Settlements General Council and the Settlement Council, including the power to make laws for the Settlement Areas governing the interests that can be created in and, their assessment and taxation, and the regulation of activities such as the provision of electric utility services. The Utility is an electric utility whose service area includes the Settlement Area.

1.2 Purpose

The General Council, Settlement, and Utility have made this agreement to

- (a) ensure safe, reliable, and economical service can be provided to existing and future electricity consumers within the Settlement Area;
- (b) enable the Utility to acquire the rights it needs to construct, maintain and operate an electric distribution system;
- (c) ensure the Utility pays a fair amount for the rights it acquires;
- (d) minimize environmental damage and other adverse effects on the land and community as a result of Utility activities; and
- (e) provide a way of resolving issues related to these matters.

1.3 Definitions

In this Agreement,

- (a) "Board" means the Alberta Energy and Utilities Board or its successors;
- (b) "consumer" means a Settlement Area resident supplied with electric service by the Utility according to the terms and conditions of service;
- (c) "construct" means to establish, build, reconstruct or extend any part of the Utility's electric distribution system or proposed electric distribution system;
- (d) "electric distribution system" and "electric utility" have the meanings given in the *Electric Utilities Act*;
- (e) "electric service" means electric power and energy;
- (f) "maintain" means to maintain, repair or overhaul any part of the electric distribution system;
- (g) "operate" means to operate, interrupt or restore any part

of the electric distribution system;

- (h) "resident" means any individual, group of individuals, firm or body corporate, with premises within the Settlement Area, and includes the Settlement;
- (i) "Settlement Area" means the land described as _____ Metis Settlement Area in Letters Patent issued to the General Council as of the date of this Agreement;
- (j) "supply" means to distribute, deliver and sell;
- (k) "terms and conditions of service" means the standards, classifications, regulations, practices, measures and terms and conditions that apply to service provided by the Utility as approved by the Board;
- (l) "utility right of way" means the lands as identified in Schedule "A" or "B" of this Agreement.

and words and expressions defined in the *Metis Settlements Act*, or in regulations made under it, have the same meaning when used in this Agreement, unless the context makes such an interpretation unreasonable.

1.4 Interpretation

- (1) In this Agreement, unless it would not make sense in the context
 - (a) references to "this Agreement" include renewed or amended versions,
 - (b) references to persons include corporations and other legal entities, such as the Settlement,
 - (c) references to things done by a party to the Agreement include things done by that party's agents or employees, and
 - (d) terms normally implying singular or plural should be interpreted to include both.
- (2) Headings are used to improve readability and should not affect interpretation.
- (3) Where this Agreement specifies a period of 10 days it means 10 calendar days starting the day after the event triggering the time period and ending at 4:30 PM on the 10th day, unless that day is Saturday, Sunday, or a statutory holiday in which case the period ends at 4:30 PM on the next regular business day. The same rule applies to other numbers.

Article 2 - Provision of Service

2.1 Right to provide service

- (1) Subject to the terms of this Agreement, the Settlement grants

the Utility an exclusive licence to construct, maintain and operate an electric distribution system within the Settlement Area.

- (2) The licence grants the Utility the right, subject to the terms of this Agreement, to, when required to properly construct, operate, expand, or maintain the electric distribution system,
- construct, operate and maintain an electric distribution system in, under, above, on, through or across any highway, road, lease road, public place or public water within the jurisdiction of the Settlement;
 - enter in, upon and under the public places within the Settlement Area when the Utility considers it necessary or convenient;
 - enter in, upon, or under all public places to remove or trim any trees, shrubs or bushes.
- (3) Subject to Article 2.2, while this Agreement is in effect the Settlement Council will not allow anyone other than the Utility to supply electricity in the Settlement Area.

2.2 Economic Development Projects

Nothing in this Agreement limits or detracts from the Settlement's right to permit any person to generate and transmit electricity in the Settlement Area for use or sale as part of a local economic development project.

2.3 Terms and Conditions of Service

The supply of electric service to the Settlement and the residents of the Settlement Area will be governed by the terms and conditions of service and those terms and conditions have priority when inconsistent with this Agreement.

2.4 Term and Termination

- This Agreement is in effect from the date it is made until March 31, 2007, unless terminated earlier as provided for in this section.
- Either the Settlement or Utility can terminate this Agreement by notifying the other parties, at least 2 years in advance, that they wish to terminate the agreement on a specified date. No such a notice can be given before April 1, 2002.
- When the Settlement provide notice of termination, it may also provide notice that it wishes to purchase the electric distribution system in the Settlement Area.
- If the Settlement provides notice of termination and the Settlement and Utility cannot agree on the terms of the purchase after completing the mediation process provided for in this Agreement, either may refer the matter to the Board for determination in accordance with section 26 of the Hydro and Electric Energy Act.

Article 3 - Land Interests And Use

3.1 Existing Land Rights

- This Agreement does not affect any rights or interests in land registered or filed by the Utility in accordance with s. 8 of the Metis Settlements Land Protection Act, including those described in Schedule A.
- The Settlement and General Council confirm that, for the

purpose of supplying electricity to the Settlement Area, the Utility has, whether previously existing or by this agreement, the utility right of ways shown in Schedule B.

3.2 Utility right of way

As provided for under the Metis Settlements General Council Public Utilities Policy, a utility right of way is

- an interest in land registerable in the Metis Settlements Land Registry,
- a utility interest for the purposes of the Metis Settlements Land Registry Regulation, and
- contributing property for the purposes of the Metis Settlements General Council Business Property Contributions Policy.

3.3 Acquiring Additional Interests

- The Utility may acquire additional utility right of ways, as required to extend or improve the electric distribution system, with the consent of the occupants of the affected parcels.
- As holder of the fee simple interest in all settlement area land, the General Council consents in advance to any grant of a utility right of way required to extend or improve the electric distribution system, provided the grant is approved by the Settlement Council in accordance with General Council Policies and Settlement by-laws.
- The utility right of ways corresponding to the additional utility right of ways may be included in this Agreement by the Settlement and Utility signing an amendment to Schedule B that identifies the area added.

3.4 Fencing

- The Utility will not fence any part of a utility right of way unless the fencing is required by law or for safety or security reasons.
- The Utility will not interfere with any fence it does not own in the Settlement Area without the Settlement's approval.

3.5 Clearing and Maintaining the Land

- The Utility will maintain all utility right of ways in a manner satisfactory to the Settlement and will not remove trees or plants without consulting the Settlement, except where required in an emergency or for safety reasons.
- The Utility will not dispose of waste materials anywhere in the Settlement Area without the Settlement's consent.
- The Utility will carry out its tree and vegetation control operations in accordance with the Industrial Vegetation Management Association of Alberta maintenance and vegetation control standards as amended or replaced from time to time.
- The Utility will not use herbicides or solvents on or near a utility right of way without the written consent² of the Settlement.

¹ Schedule B is a map showing the distribution system in the Settlement Area.

² Note that the right to withhold consent, like all other rights under this Agreement, is bound by the duty to act reasonably as set out in clause 7.5.

- (5) The Settlement will assist the Utility in obtaining any timber permits needed to allow the cutting or removal of trees for proper clearing and maintenance of all utility right of ways in the Settlement and the Utility will pay the related permit fees, including the value of any salvageable timber removed from the Settlement by the Utility.

3.6 Repairs to Public Places

- (1) When the Utility does any work on, in, or under a public place in the Settlement Area in order to construct, maintain, or operate its electric distribution system it must complete the work within a reasonable time.
- (2) On completing the work, the Utility must restore the public place to a state of repair as near as practicable to the condition that existed immediately before the work started, unless the Settlement agrees that some other condition is acceptable.
- (3) If the Utility fails to restore the place to the required condition, the Settlement may, on giving reasonable notice to the Utility, do the restoration work and the Utility will be liable for the reasonable associated costs.

Article 4 - Services And Facilities

4.1 Idle Facilities

- (1) The Utility will obtain the Settlement's approval before making any changes to the electric distribution system that will result in loss of service to a site in the Settlement Area.
- (2) If the Utility is left with idle facilities because the Settlement will not agree to the change, the Utility can charge the Settlement an idle service fee as determined by the Board.
- (3) If the Settlement does not agree to salvaging the idle facilities and does not pay the Utility's idle service fee, the Utility can salvage the facilities without the Settlement's approval.
- (4) The Utility's responsibilities and liabilities for idle facilities remaining in place will be the same as for active facilities.

4.2 Removal of Idle Facilities

- (1) If the Settlement agrees that idle facilities should be removed, the Utility will, without unreasonable delay,
- (a) remove the facilities and restore the utility right of way as near as practicable to the condition it was in before the Utility acquired its interest; and
 - (b) apply to the Metis Settlements Land Registry to remove the registration or recording of any corresponding utility right of way.
- (2) If the Utility has not restored the land within a reasonable time of the Settlement telling it to, the Settlement can do the work itself and the Utility will pay the corresponding reasonable costs.

4.3 Relocation of Facilities

- (1) The Utility will, at the request and at the expense of the Settlement, remove, alter or relocate any of its electric distribution system if doing so does not constitute breach of contract with any consumer or other electric service customer or contravene any statute, regulation, or regulatory order.
- (2) The Utility and the Settlement will share the cost of the

relocation in proportion to the benefit each gains from the relocation

- (3) If the Utility and the Settlement cannot agree on the cost sharing for a relocation the matter will be determined as provided for in Article 5.7.

4.4 Shared Use

- (1) The Settlement may, for any reasonable community purpose, make use of the poles of the Utility or share in the use of the trenches excavated by the Utility provided the use does not interfere with the Utility's use and complies with the Safety Codes Act and related regulations as amended and replaced from time to time.
- (2) The Settlement will pay the reasonable cost of any additions to facilities required to enable this shared use.
- (3) The Settlement indemnifies the Utility from all damage, injury, claims and costs resulting from the Settlement's shared use of the poles or trenches.

4.5 Work Affecting the System

- (1) Before the Settlement has any work done within the Settlement Area that can reasonably be expected to affect the electric distribution system, it will
- (a) in normal circumstances, give to the Utility 10 days notice in writing, and
 - (b) in case of an emergency, inform the Utility by phone call or fax.
- (2) In performing such work, the Settlement will conform to the Safety Codes Act.
- (3) The Utility may name a representative to oversee this work on its behalf and if the reasonable directions of the Utility's representative in carrying out the work are complied with, and the Safety Codes Act is complied with, notwithstanding Article 7.7 the Settlement will be free from all liability in connection with any damage done to the electric distribution system because of the work.

Article 5 - Community Relations

5.1 Regular Consultation

The Utility and Settlement Council will meet as required, and at least once a year, to:

- (a) share information on matters related to the electric distribution system, such as Settlement Area development plans and Settlement member concerns;
- (b) share information on planned Utility activities inside the Settlement Area that may affect the Settlement or its members, including those that may create employment or business opportunities; and
- (c) identify opportunities for Settlement members to obtain training for employment by the Utility or its contractors.

5.2 Activity Consultation

- (1) Outside of emergencies, the Utility will not have any construction, operation or maintenance work done in the Settlement Area without consulting the Settlement.
- (2) The consultation will include at least notice of what kind of

work will be done, who will do it, and when and where they will be doing it, and an opportunity for the Settlement to respond.

5.3 Approving System Changes

- (1) The Utility will consult the Settlement before extending the electric distribution system, adding facilities to it, or undertaking major repair or maintenance work.
- (2) At the request of the Utility, the Settlement will help plan extensions or modifications of the electric distribution system by advising the Utility of
 - (a) Settlement development plans and bylaws,
 - (b) environmentally sensitive areas, and
 - (c) special areas which may, for example, be historically, traditionally, or culturally significant.
- (3) The Utility will submit plans to the Settlement and obtain its approval before proceeding with any addition or alteration to the electric distribution system that requires access to additional lands or changes the use of an existing utility right of way.

5.4 Employment Opportunities

- (1) The Utility will not advertise or award any contract for work related to the construction, operation or maintenance, of the electric distribution system within the Settlement Area, without first providing an opportunity for the Settlement to submit a local bid on the work.
- (2) For the purposes of this section, "local bid" means a bid submitted by the Settlement on its own behalf or on behalf of one or more members of a Metis Settlement, or a business controlled by Metis Settlements or their members.
- (3) The Utility will accept the local bid if, in the opinion of the Utility, it is complete, competitive, and from someone with the skills and equipment needed to do the work.
- (4) If the Utility does not accept the local bid, it will explain to the Settlement why the bid is unacceptable and allow at least 10 days for another bid to be prepared and submitted to open bidding.
- (5) Subject to the preceding terms of this Article, the Utility may open bidding to any contractor who is prepared to operate under the same conditions as imposed on the Utility by this Agreement, and, all other things being equal, will give priority to a local bid.

5.5 Emergencies

- (1) The Utility will immediately notify the Settlement in the event of an emergency that may affect the electric distribution system or its users and will provide enough detail for the Settlement to alert Settlement Area residents.
- (2) Article 5.4 does not apply to emergencies, but if the Utility uses an outside contractor for emergency work it will, as soon as practicable, advise the Settlement who the contractor was and what equipment was used.

5.6 Settlement/Utility Contacts

- (1) The Settlement Council and Utility will each appoint a Representative to act as a contact for the purposes of this Agreement.
- (2) Any communication under this Agreement must, unless this

Agreement or an emergency requires alternative action, begin by contacts between the two Representatives.

- (3) The initial Representatives and their locations, are:
 - (a) Representative for the Settlement

(Name, Address, Phone, Fax)

- (b) Representative for the Utility

(Name, Address, Phone, Fax)

- (4) The Council and Utility will keep each other, and the General Council, informed of any changes in their Representative or contact address.

5.7 Mediation

- (1) If a difference develops between the Settlement and Utility in carrying out this Agreement, both will do their best to resolve the difference within 30 days by discussion and mediation, and only after that will either party begin arbitration or litigation.
- (2) Either the Settlement or Utility may, after making a reasonable and honest effort to resolve a difference by discussion, request mediation assistance from the Metis Settlements Appeal Tribunal as provided for under the Metis Settlements Act.
- (3) If the Metis Settlements Appeal Tribunal appoints a mediator, both the Settlement and Utility will do their best to work with the mediator to resolve the difference.
- (4) This section does not apply to the Utility's setting of terms and conditions of service, rates, tolls, or charges, of general application.
- (5) Nothing in this section limits the right of the Settlement or the Utility to proceed immediately to arbitration or litigation
 - (a) for those claims to which the indemnity and liability provisions of this Agreement apply,
 - (b) where necessary to preserve limitation periods, or
 - (c) to comply with other deadlines.

Article 6 - Utility Payments

6.1 Franchise fee

- (1) Beginning as soon as practicable after this Agreement takes effect, and for the rest of the term of this Agreement, the Utility will collect from the consumers in the Settlement Area and pay the Settlement a franchise fee equal to ____ percent of the gross revenues the Utility derives from supplying electric service in the Settlement Area.
- (2) The amount set for the franchise fee will be reviewed by the Utility and Settlement every three years to determine whether

the existing percentage is appropriate, and if there is agreement on a different percentage, the Utility will apply to the Board for approval of the change.

- (3) As soon as practicable in each calendar year, the Utility will remit to the Settlement the above franchise fee calculated on the revenues of the immediately preceding calendar year, exclusive of bad debts and arrears².
- (4) It is understood that this Agreement, including the level of the franchise fee, must be approved by the Board, and the Utility will apply to the Board for an order granting that approval.
- (5) The Utility will supply the Settlement annually, on request, documentation satisfactory to the Settlement disclosing the financial information used by the Utility to calculate the payment of the franchise fee.
- (6) As long as this Agreement is in effect the Settlement accepts payment of the franchise fee in lieu of all other fees, taxes, contributions, licenses, or other charges for rights or interests acquired by the Utility under this Agreement.
- (7) The payment of the franchise fee does not affect the Utility's liability for indemnities and special damages as provided for in this Agreement.

6.2 Compensation for Damages

- (1) Unless required by subsection (2) or an order of the Land Access Panel, the Utility will not pay any occupant damages arising from reasonable and necessary work done to provide services under this Agreement.
- (2) The Utility will compensate occupants for special damages where those damages are not reasonably and necessarily incurred to provide services under this Agreement.
- (3) If the Utility and occupant cannot agree on the compensation payable for special damages, the matter will be referred to the Land Access Panel for compensation determination according to Section 118 of the Metis Settlements Act.
- (4) If the Settlement approves a grant of a utility right of way and an occupant applies to the Land Access Panel for a determination of compensation in relation to the grant, this Agreement may be provided to the Panel as evidence of the common understanding that the grant is in support of developing the community and, subject to subsection (2), not something that should require compensation.

Article 7 - General Matters

7.1 Utility's Legislated Powers

The Settlement and General Council consent to the Utility exercising its powers under the Water, Gas and Electric Companies Act within the Settlement Area.

7.2 Compliance With Laws

The Utility will, at its own expense, promptly comply with all laws that apply to a utility right of way and the construction or operation

of the Utility's facilities on it.

7.3 The Crown

Notwithstanding anything else in this Agreement, it is understood that the rights, powers and privileges conferred by this Agreement are not exclusive as against Her Majesty in right of the Province of Alberta.

7.4 Nature of Agreement

This Agreement constitutes

- (a) a grant by the Settlement of an exclusive licence, subject to the terms of this Agreement, to distribute electricity in the Settlement Area, and
- (b) an annual contributions agreement for the purposes of the General Council Business Property Contributions Policy.

7.5 Notice

- (1) Notices under this Agreement must be in writing delivered personally, or by fax, courier, or registered letter, to the appropriate representative as appointed under Article 5.6.
- (2) When given personally, by fax, or by courier, the notice will be considered received the day it was delivered.
- (3) When delivered by registered letter, the notice will be considered received 7 days after mailing.

7.6 Assumption of Reasonableness

All parties to this Agreement are committed to acting reasonably to carry out its provisions, as for example in ensuring good communication, forming opinions, providing approvals, granting consents, and confirming the satisfactory conduct of work.

7.7 Indemnity

- (1) The Utility indemnifies the Settlement from any damage, injury, claims or costs incurred by the Settlement due to damages caused by negligent acts or omissions of the Utility, its employees, or its agents, in relation to the construction or operation of the electric distribution system.
- (2) The Settlement indemnifies the Utility from any damage, injury, claims or costs incurred by the Utility in relation to the electric distribution system due to damages caused by negligent acts or omissions of the Settlement, its employees, or its agents.

7.8 Waiver

No one can be excused from a responsibility under this Agreement except in writing, and if any party fails to meet a responsibility, silence by another will not be considered as acceptance of the failure.

7.9 Amendment

This Agreement can only be amended by another written agreement signed by the Settlement, General Council, and the Utility, subject to the provisions of Article 3.3(3).

7.10 Assignment

- (1) This Agreement, and everything contained in it, binds and benefits the parties and their respective successors and assigns.
- (2) The Utility can assign this Agreement, subject to any necessary regulatory approvals, with the consent of the Settlement.

² To illustrate, assume the Utility bills consumers in the Settlement Area \$110,000 in 1998 but only receives \$100,000 in revenues because of \$10,000 in bad debts and arrears. Assume also the franchise fee rate is 10%. Then as soon as practicable in 1999, the Utility would pay the Settlement \$100,000 x 10% = \$10,000.

Metis Settlement Area

Utility Services Agreement

7.11 Entire Agreement

prior agreement between the parties relating to this subject matter.

Subject to Article 3.3(3), this Agreement constitutes the whole of the contract between the parties and supersedes the provisions of any

This Agreement signed, sealed and delivered effective _____, by

Metis Settlements General Council

Witness

Officer

Metis Settlement

Councillor

Councillor

Councillor

Councillor

Councillor

Administrator

Witness

(Utility)

Witness

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